

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'G': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

**ITA No.19/DEL/2022  
[Assessment Year: 2017-18]**

|  |    |   |
|--|----|---|
| DCIT,<br>Circle-22(2),<br>Room No.22(2),<br>Building, IP Estate,<br>New Delhi-110002 | Vs | Super City Developers Pvt. Ltd.<br>Plot No.6, Bharti Artist Colony,<br>Preet Vihar,<br>Delhi-110092 |
|  |    | <b>PAN-AABC15062L</b>   |
| Revenue  |    | Assessee  |

|             |                       |
|-------------|-----------------------|
| Revenue by  | Sh. Anuj Garg, Sr. DR |
| Assessee by | Sh. C.S. Anand, Adv.  |

|                              |                   |
|------------------------------|-------------------|
| <b>Date of Hearing</b>       | <b>14.12.2023</b> |
| <b>Date of Pronouncement</b> | <b>19.12.2023</b> |

**ORDER**

**PER SHAMIM YAHYA, AM,**

This appeal by the Revenue is directed against the order of the  
ld. CIT (Appeals)-8, New Delhi dated 21.09.2020 for the assessment  
year 2017-18.

2. The grounds of appeal raised by the assessee reads as under:-

*1. Whether in facts and circumstances of the case, the  
Ld. CIT(A) erred in deleting the disallowance made by the  
Assessing Officer of Rs.1,35,37,925/- on account of  
unexplained expenditure on adhoc basis by applying rate  
of 10% and ignoring the facts that the Assessing Officer  
has made the addition only after non-compliance of  
notice issued by the appellant.*

*2. Whether on the facts and circumstances of the case,  
the Ld. CIT(A) has erred in deleting the addition made by*

*the Assessing Officer of Rs.71,60,000/- u/s 69A of the Act on account of unexplained cash deposit during the period of demonetization by the appellant.”*

3. Brief facts of the case are that assessment in this case was framed u/s 144 of the Act. In absence of books of account and other necessary details and vouchers, the AO made disallowance of Rs.1,35,37,925/- out of various expenses. The observation of the AO in this regard is as under:-

*“The assessee company has claimed various expenditure in its e-filed return of income. Out of these expenditures, there are certain expenses which are excessive and not reasonable. Details of such expenditure are as under:-*

|          |   |                          |
|----------|---|--------------------------|
| <i>a</i> | <i>Rents</i>  | <i>Rs.39,38,178</i>      |
| <i>b</i> | <i>Repairs to building</i>                              | <i>Rs.30,063/-</i>       |
| <i>c</i> | <i>Salaries and wages</i>                               | <i>Rs.1,26,28,075/-</i>  |
| <i>d</i> | <i>Workmen and staff welfare expenses</i>               | <i>Rs.3,37,036/-</i>     |
| <i>e</i> | <i>Sales Promotion including publicity</i>              | <i>Rs.31,34,074/-</i>    |
| <i>f</i> | <i>Advertisement</i>                                    | <i>Rs.18,60,217/-</i>    |
| <i>g</i> | <i>Consultancy fee</i>                                  | <i>Rs.10,80,388</i>      |
| <i>h</i> | <i>Travelling exp. Other than on foreign travelling</i> | <i>Rs.18,95,708/-</i>    |
| <i>i</i> | <i>Telephone Expenses</i>                               | <i>Rs.2,23,029/-</i>     |
| <i>j</i> | <i>Donation</i>   | <i>Rs.4,50,000/-</i>     |
| <i>k</i> | <i>Other expenses</i>                                   | <i>Rs.5,27,08,886/-</i>  |
| <i>l</i> | <i>Interest paid to others</i>                          | <i>Rs.5,70,93,601/-</i>  |
|          | <i>Total</i>  | <i>Rs.13,53,79,255/-</i> |

*The assessee has not furnished any details relating to the above expenses, such as copy of ledger account, bills / vouchers etc. to justify such huge expenses. Books of account with supporting bills/vouchers have also not been produced in support of the above claim. Under these circumstances, the assessee has also not furnished the balance sheet and the relevant details showing the nature & purpose of such expenses. It is evident that the assessee has not made any compliance with reference to the notices issued earlier as stated above. In the absence of any details, the claim of the assessee under this head is not being allowed and expenses @ 10% of Rs. 13,53,79,255/- which comes to Rs. 1,35,37,925/- is hereby disallowed to the total income of the assessee. Since, I am satisfied that the assessee company has under reported its income in consequence of any*

*misreporting thereof, therefore penalty proceedings u/s 270A is initiated separately.”*

4. Furthermore, the AO observed that the assessee has deposited Rs.71,60,000/- in its three bank accounts during the demonetization period. In absence of any explanation as to the source of cash deposit the AO assessed the same in the hands of the assessee u/s 69A of the Act.

5. Against the above order, the assessee appealed before the Ld. CIT(A).

6. As regards the issue of disallowance of various expenses, the Ld. CIT(A) mentioned that the same was done without raising specific query and without rejecting books of accounts, he proceeded to delete the addition. As regards the cash deposits in bank account, the Ld. CIT(A) accepted the statement that the assessee has withdrawn the money from his bank account. That he kept such huge cash to finance a big construction project. It did not materialize. Accepting these submissions, the Ld. CIT(A) considering that the sum was duly recorded in the books of accounts maintained by the assessee which is audited and found that this explanation is sufficient.

7. Against this order, the Revenue is in appeal before us.

8. We find that the disallowance have been made by the Assessing Officer on account of absence of books of account and relevant details, vouchers and lack of compliance by the assessee. The Ld. CIT(A) on the other hand has granted relief to the assessee by mentioning that the books of accounts are there and all material, relevant details are duly

detailed in the assessee's accounts. We find that there is no mention that any remand report was obtained from the Assessing Officer. We find that when the addition is being done on account of lack of compliance by the assessee and submissions of details of books of accounts, the Ld. CIT(A) cannot delete the addition made by the Assessing Officer by simply observing that books of accounts and other details are duly there. In our considered opinion, interest of justice will be served if the issue is remitted back to the file of the Assessing Officer. The Assessing Officer is directed to consider the issue afresh in the light of various findings of Ld. CIT(A) regarding books of accounts, other relevant details, vouchers and explanations. Needless to add that the assessee should be granted adjudicate opportunity of being heard.

9. In the result, the appeal of the Revenue stands allowed for statistical purposes.

Order pronounced in the open court on 19<sup>th</sup> December, 2023.

**Sd/-**  
**[CHALLA NAGENDRA PRASAD]**  
**JUDICIAL MEMBER**  
**Delhi, Dated 19.12.2023.**

*Shekhar,*

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

**Sd/-**  
**[SHAMIM YAHYA]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi